

PATENT COOPERATION TREATY

PCT

INTERNATIONAL SEARCH REPORT

(PCT Article 18 and Rules 43 and 44)

Applicant's or agent's file reference C09048	FOR FURTHER ACTION see Form PCT/ISA/220 as well as, where applicable, item 5 below.	
International application No. PCT/AU2009/000262	International filing date (day/month/year) 4 March 2009	(Earliest) Priority Date (day/month/year) 4 March 2008
Applicant RESMED LTD et al		
<p>This international search report has been prepared by this International Searching Authority and is transmitted to the applicant according to Article 18. A copy is being transmitted to the International Bureau.</p> <p>This international search report consists of a total of 7 sheets.</p> <p><input type="checkbox"/> It is also accompanied by a copy of each prior art document cited in this report.</p>		
<p>1. Basis of the report</p> <p>a. With regard to the language, the international search was carried out on the basis of:</p> <p><input checked="" type="checkbox"/> The international application in the language in which it was filed.</p> <p><input type="checkbox"/> A translation of the international application into _____, which is the language of a translation furnished for the purposes of international search (Rules 12.3(a) and 23.1(b)).</p> <p>b. <input type="checkbox"/> This international search report has been established taking into account the rectification of an obvious mistake authorized by or notified to this Authority under Rule 91 (Rule 43.6bis(a)).</p> <p>c. <input type="checkbox"/> With regard to any nucleotide and/or amino acid sequence disclosed in the international application, see Box No. I.</p> <p>2. <input type="checkbox"/> Certain claims were found unsearchable (See Box No. II).</p> <p>3. <input checked="" type="checkbox"/> Unity of invention is lacking (See Box No. III).</p> <p>4. With regard to the title,</p> <p><input checked="" type="checkbox"/> the text is approved as submitted by the applicant.</p> <p><input type="checkbox"/> the text has been established by this Authority to read as follows:</p> <p>.....</p> <p>5. With regard to the abstract,</p> <p><input checked="" type="checkbox"/> the text is approved as submitted by the applicant.</p> <p><input type="checkbox"/> the text has been established, according to Rule 38.2, by this Authority as it appears in Box No. IV. The applicant may, within one month from the date of mailing of this international search report, submit comments to this Authority.</p> <p>6. With regard to the drawings,</p> <p>a. the figure of the drawings to be published with the abstract is Figure No. 1</p> <p><input checked="" type="checkbox"/> as suggested by the applicant.</p> <p><input type="checkbox"/> as selected by this Authority, because the applicant failed to suggest a figure.</p> <p><input type="checkbox"/> as selected by this Authority, because this figure better characterizes the invention.</p> <p>b. <input type="checkbox"/> none of the figures is to be published with the abstract.</p>		

Box No. II Observations where certain claims were found unsearchable (Continuation of item 2 of first sheet)

This international search report has not been established in respect of certain claims under Article 17(2)(a) for the following reasons:

1. ☐ Claims Nos.:
because they relate to subject matter not required to be searched by this Authority, namely:
2. ☐ Claims Nos.:
because they relate to parts of the international application that do not comply with the prescribed requirements to such an extent that no meaningful international search can be carried out, specifically:
3. ☐ Claims Nos.:
because they are dependent claims and are not drafted in accordance with the second and third sentences of Rule 6.4(a)

Box No. III Observations where unity of invention is lacking (Continuation of item 3 of first sheet)

This International Searching Authority found multiple inventions in this international application, as follows:

See Supplemental Box I

1. ☐ As all required additional search fees were timely paid by the applicant, this international search report covers all searchable claims.
2. ☐ As all searchable claims could be searched without effort justifying additional fees, this Authority did not invite payment of additional fees.
3. ☐ As only some of the required additional search fees were timely paid by the applicant, this international search report covers only those claims for which fees were paid, specifically claims Nos.:
4. ☒ No required additional search fees were timely paid by the applicant. Consequently, this international search report is restricted to the invention first mentioned in the claims; it is covered by claims Nos.: 1-7

Remark on Protest

- ☐ The additional search fees were accompanied by the applicant's protest and, where applicable, the payment of a protest fee.
- ☐ The additional search fees were accompanied by the applicant's protest but the applicable protest fee was not paid within the time limit specified in the invitation.
- ☐ No protest accompanied the payment of additional search fees.

INTERNATIONAL SEARCH REPORT

International application No.

PCT/AU2009/000262

A. CLASSIFICATION OF SUBJECT MATTER

Int. Cl.

A61M 16/06 (2006.01)

A62B 9/00 (2006.01)

A62B 7/00 (2006.01)

A62B 18/08 (2006.01)

According to International Patent Classification (IPC) or to both national classification and IPC

B. FIELDS SEARCHED

Minimum documentation searched (classification system followed by classification symbols)

Documentation searched other than minimum documentation to the extent that such documents are included in the fields searched

Electronic data base consulted during the international search (name of data base and, where practicable, search terms used)

GOOGLE, PATENT LENS, EPOQUE, EPODOC & WPI; IPC & EC: A61M 16/-, A62B 7/-, A62B 9/-, A62B 18/- and Keywords (Mask, Respiratory, Apnoea, Snoring, Cushion, Support, Pad, Foam, Sponge) and similar terms.

C. DOCUMENTS CONSIDERED TO BE RELEVANT

Category*	Citation of document, with indication, where appropriate, of the relevant passages	Relevant to claim No.
X	US 6412487 B1 (GUNARATNAM et al.) 02 July 2002 See Abstract, Col.4 - Lines 18-20, Figs.6a-6e, Col.2 - Lines 28-41	1-7
X	US 7021311 B2 (GUNARATNAM et al.) 04 April 2006 See Abstract, Col.5 - Lines 28-30, Figs. 6a-6e, Col.5 - Lines 39-48	1-7
X	US 7207334 B2 (SMART) 24 April 2007 See Abstract, Col.2 - Lines 43-50, Col.3 - Lines 17-21	1-7
X	US 2003/0075180 A1 (RAJE et al.) 24 April 2003 See Abstract, Para [0011], Para [0231], Para [0183]	1-7



Further documents are listed in the continuation of Box C



See patent family annex

* Special categories of cited documents:	
"A" document defining the general state of the art which is not considered to be of particular relevance	"T" later document published after the international filing date or priority date and not in conflict with the application but cited to understand the principle or theory underlying the invention
"E" earlier application or patent but published on or after the international filing date	"X" document of particular relevance; the claimed invention cannot be considered novel or cannot be considered to involve an inventive step when the document is taken alone
"L" document which may throw doubts on priority claim(s) or which is cited to establish the publication date of another citation or other special reason (as specified)	"Y" document of particular relevance; the claimed invention cannot be considered to involve an inventive step when the document is combined with one or more other such documents, such combination being obvious to a person skilled in the art
"O" document referring to an oral disclosure, use, exhibition or other means	"&" document member of the same patent family.
"P" document published prior to the international filing date but later than the priority date claimed	

Date of the actual completion of the international search

01 June 2009

Date of mailing of the international search report

09 JUN 2009

Name and mailing address of the ISA/AU

AUSTRALIAN PATENT OFFICE
PO BOX 200, WODEN ACT 2606, AUSTRALIA
E-mail address: pct@ipaustralia.gov.au
Facsimile No. +61 2 6283 7999

Authorized officer

VARUN WADHWA
AUSTRALIAN PATENT OFFICE
(ISO 9001 Quality Certified Service)
Telephone No : +61 2 6225 6142

INTERNATIONAL SEARCH REPORT

International application No.

PCT/AU2009/000262

C (Continuation). DOCUMENTS CONSIDERED TO BE RELEVANT		
Category*	Citation of document, with indication, where appropriate, of the relevant passages	Relevant to claim No.
X	US 2004/0118406 A1 (LITHGOW et al.) 24 June 2004 See Abstract, Figs. 8-8B, 11-11B, Para [0118], Figs. 1-5B	1-7
X	WO 2005/118040 A1 (RESMED LIMITED) 15 December 2005 See Abstract, Para [0010], [0024] & [0028]	1-7
P,X	US 2008/0257354 A1 (DAVIDSON et al.) 23 October 2008 See Whole Document	1-7

Supplemental Box I

(To be used when the space in any of Boxes I to IV is not sufficient)

Continuation of Box No: III

This International Application does not comply with the requirements of unity of invention because it does not relate to one invention or to a group of inventions so linked as to form a single general inventive concept.

In assessing whether there is more than one invention claimed, I have given consideration to those features which can be considered to potentially distinguish the claimed combination of features from the prior art. Where different claims have different distinguishing features they define different inventions.

This International Searching Authority has found that there are different inventions as follows:

- Claims 1-7 are directed to a cushion for a respiratory mask. It is considered that the clip portion and an interfacing portion wherein the interfacing portion is constructed from a foam material and the clip portion is narrower than the interfacing portion comprises a first distinguishing feature.
- Claims 8-11 are directed to a mask system comprises a common frame and at least a first cushion constructed from foam and a second cushion constructed from silicone. It is considered that the first and second cushions each structured to removably attach to the frame comprise a second distinguishing feature.

PCT Rule 13.2, first sentence, states that unity of invention is only fulfilled when there is a technical relationship among the claimed inventions involving one or more of the same or corresponding special technical features. PCT Rule 13.2, second sentence, defines a special technical feature as a feature which makes a contribution over the prior art.

Each of the abovementioned groups of claims has a different distinguishing feature and they do not share any feature which could satisfy the requirement for being a special technical feature. Because there is no common special technical feature it follows that there is no technical relationship between the identified inventions. Therefore the claims do not satisfy the requirement of unity of invention *a priori*.

INTERNATIONAL SEARCH REPORT

Information on patent family members

International application No.

PCT/AU2009/000262

This Annex lists the known "A" publication level patent family members relating to the patent documents cited in the above-mentioned international search report. The Australian Patent Office is in no way liable for these particulars which are merely given for the purpose of information.

Patent Document Cited in Search Report		Patent Family Member			
US	6412487	AU	12454/97	AU	14892/00
		AU	16811/02	AU	26505/00
		AU	42476/99	AU	49012/00
		AU	52007/00	AU	2004205283
		CA	2298129	CA	2470671
		DE	29724224U	EP	0956069
		EP	1187647	EP	1187648
		EP	1187650	EP	1479406
		EP	1621225	EP	1625868
		EP	1640034	EP	1741461
		HK	1071083	JP	2000279520
		JP	2005111287	JP	2006061703
		NZ	526165	NZ	526166
		NZ	526168	NZ	542849
		NZ	556540	US	6112746
		US	6374826	US	6439230
		US	6513526	US	6532961
		US	6634358	US	6691707
		US	6796308	US	6860269
		US	7021311	US	7066178
		US	7089939	US	7174893
		US	7185652	US	7207334
		US	7243651	US	7487777
		US	2002/0005198	US	2002/0005200
		US	2002/0023650	US	2002/0029781
		US	2002/0083948	US	2002/0096176
		US	2002/0108613	US	2002/0153012
		US	2002/0174867	US	2002/0174868
		US	2004/0025881	US	2004/0094159
		US	2004/0134497	US	2005/0022818
		US	2006/0107960	US	2006/0130843
		US	2006/0201515	US	2006/0289010
		AU	16355/00	AU	34293/97
		AU	52005/00	CA	2261790
		CA	2519452	EP	1027905
		EP	1187649	EP	1525895
		EP	1637175	EP	1985327
		JP	2004041779	NZ	513052
		NZ	526167	NZ	543939
		US	6357441	US	6491034
		US	6581602	US	6701927
		US	6871649	US	7069933
		US	7178527	US	7234466
		US	7523753	US	2002/0023649
		US	2002/0074001	US	2002/0104540
		US	2002/0157672	US	2003/0034034
		US	2004/0099272	US	2006/0076017
		US	2006/0144405	US	2007/0107735

INTERNATIONAL SEARCH REPORT
Information on patent family members

International application No.
PCT/AU2009/000262

		US	2007/0261697	US	2009/0114227	WO	2000/078381
		WO	2000/078382	WO	2000/078383	WO	2000/078384
		WO	1998/004310				
US	2003/0075180	AU	2003257270	AU	2003257271	AU	2003257273
		AU	2003257274	AU	2008258157	CN	1681551
		CN	1681552	CN	1681553	CN	1688358
		EP	1334742	EP	1539288	EP	1545673
		EP	1545674	EP	1545675	JP	2003175106
		US	6823869	US	7011090	US	7216647
		US	7316230	US	7318439	US	7523754
		US	2004/0112384	US	2004/0112385	US	2004/0112387
		US	2004/0118406	US	2005/0081858	US	2006/0102185
		US	2007/0157934	US	2008/0099014	US	2008/0178885
		WO	2004/022144	WO	2004/022145	WO	2004/022146
		WO	2004/022147				
WO	2005/118040	EP	1755719	US	2008/0006277		
US	2008/0257354	CN	101301505	EP	1982740		
Due to data integration issues this family listing may not include 10 digit Australian applications filed since May 2001.							
END OF ANNEX							